

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

Attachment E

1.11.13

DRAFT

LLS NO. 13-0145.01 Christy Chase x2008

SUNSET BILL

**Sunset Process - Senate Health and
Human Services Committee**

SHORT TITLE: "Sunset Review Occupational Therapy Practice Act"

DEADLINES: Finalize by: 23 JAN 2013 File by: 25 JAN 2013

A BILL FOR AN ACT

101 **CONCERNING THE SUNSET REVIEW OF THE REGULATION OF THE**
102 **PRACTICE OF OCCUPATIONAL THERAPY, AND, IN CONNECTION**
103 **THEREWITH, IMPLEMENTING THE RECOMMENDATIONS OF THE**
104 **DEPARTMENT OF REGULATORY AGENCIES TO REPEAL THE**
105 **"OCCUPATIONAL THERAPY PRACTICE ACT" AND TO RESTORE**
106 **PROVISIONS IN THE "COLORADO CONSUMER PROTECTION ACT"**
107 **ESTABLISHING A DECEPTIVE TRADE PRACTICE WHEN A PERSON**
108 **CLAIMS TO BE AN OCCUPATIONAL THERAPIST WITHOUT**
109 **APPROPRIATE EDUCATION, TRAINING, AND NATIONAL**
110 **CERTIFICATION.**

Bill Summary

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Sunset Process - Senate Health and Human Services Committee. The bill implements the recommendations contained in the sunset review and report on the "Occupational Therapy Practice Act" (OTPA) by repealing the OTPA and restoring provisions in the "Colorado Consumer Protection Act" (CCPA) that existed prior to the enactment of the OTPA. The provisions restored in the CCPA establish a deceptive trade practice, and thus trigger CCPA remedies, when a person claims to be an occupational therapist but has not earned the appropriate higher education degree, completed an internship, passed an examination given by a national organization, and obtained certification from a national organization.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **repeal** article 40.5
3 of title 12.

4 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal**
5 (43.5) (b) and (43.5) (c) as follows:

6 **24-34-104. General assembly review of regulatory agencies**
7 **and functions for termination, continuation, or reestablishment.**

8 (43.5) The following agencies, functions, or both, shall terminate on June
9 30, 2013:

10 (b) ~~The regulation of occupational therapists in accordance with~~
11 ~~article 40.5 of title 12, C.R.S.;~~

12 (c) ~~The regulation of occupational therapists and occupational~~
13 ~~therapy assistants in accordance with article 40.5 of title 12, C.R.S.~~

14 **SECTION 3.** In Colorado Revised Statutes, 6-1-707, **recreate**
15 **and reenact, with amendments, (1) (c) as follows:**

16 **6-1-707. Use of title or degree - deceptive trade practice. (1) A**

1 person engages in a deceptive trade practice when, in the course of such
2 THE person's business, vocation, or occupation, ~~such~~ THE person:

3 (c) CLAIMS EITHER ORALLY OR IN WRITING TO BE A "CERTIFIED
4 OCCUPATIONAL THERAPIST", "OCCUPATIONAL THERAPIST REGISTERED",
5 "LICENSED OCCUPATIONAL THERAPIST", OR "OCCUPATIONAL THERAPIST"
6 OR USES THE ABBREVIATION "O.T.", "O.T.R.", OR "O.T.R./L." TO
7 INDICATE THAT THE PERSON IS AN OCCUPATIONAL THERAPIST UNLESS THE
8 PERSON:

9 (I) HAS EARNED A BACCALAUREATE, MASTER'S, OR DOCTORATE
10 DEGREE IN OCCUPATIONAL THERAPY FROM AN INSTITUTION THAT IS:

11 (A) ACCREDITED BY THE NORTH CENTRAL COUNCIL OF COLLEGES
12 AND SCHOOLS AND BY THE AMERICAN OCCUPATIONAL THERAPY
13 ASSOCIATION'S ACCREDITATION COUNCIL FOR OCCUPATIONAL THERAPY
14 EDUCATION; OR

15 (B) A SCHOOL, INSTITUTE, COLLEGE, OR UNIVERSITY CHARTERED
16 OUTSIDE THE UNITED STATES, THE ACADEMIC DEGREE FROM WHICH HAS
17 BEEN VALIDATED BY THE WORLD FEDERATION OF OCCUPATIONAL
18 THERAPISTS, THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION, OR
19 ANY OTHER NATIONALLY RECOGNIZED ACCREDITING AGENCY; AND

20 (II) MEETS ALL OF THE FOLLOWING:

21 (A) HAS COMPLETED THE MINIMUM REQUIREMENTS OF INTERNSHIP
22 UNDER THE SUPERVISION OF AN OCCUPATIONAL THERAPIST;

23 (B) HAS SUCCESSFULLY PASSED THE ENTRY-LEVEL CERTIFICATION
24 EXAMINATION GIVEN BY THE AMERICAN OCCUPATIONAL THERAPY
25 CERTIFICATION BOARD OR THE NATIONAL BOARD FOR CERTIFICATION IN
26 OCCUPATIONAL THERAPY OR THEIR SUCCESSOR BOARDS; AND

27 (C) HOLDS AN INITIAL CERTIFICATE THROUGH THE AMERICAN

1 OCCUPATIONAL THERAPY CERTIFICATION BOARD OR THE NATIONAL BOARD
2 FOR CERTIFICATION IN OCCUPATIONAL THERAPY OR THEIR SUCCESSOR
3 BOARDS;

4 **SECTION 4.** In Colorado Revised Statutes, 10-4-634, **amend** (1)
5 as follows:

6 **10-4-634. Assignment of payment for covered benefits.** (1) On
7 and after ~~thirty days after April~~ MAY 5, 2004, a policy of motor vehicle
8 insurance coverage pursuant to this part 6 shall allow, but not require, an
9 insured under the policy to assign, in writing, payments due under
10 medical payments coverage of the policy to a licensed hospital or other
11 licensed health care provider, an occupational therapist as ~~defined~~
12 DESCRIBED in section ~~12-40.5-103~~ 6-1-707 (1) (c), C.R.S., or a massage
13 therapist as defined in section 12-35.5-103 (8), C.R.S., for services
14 provided to the insured that are covered under the policy.

15 **SECTION 5.** In Colorado Revised Statutes, 10-4-635, **amend** (5)
16 (d) as follows:

17 **10-4-635. Medical payments coverage - definitions.** (5) As used
18 in this section:

19 (d) "Licensed health care provider" shall have the same meaning
20 as set forth in section 10-4-601, and also includes an occupational
21 therapist as ~~defined~~ DESCRIBED in section ~~12-40.5-103(8)~~ 6-1-707 (1) (c),
22 C.R.S.

23 **SECTION 6.** In Colorado Revised Statutes, **amend** 10-4-637 as
24 follows:

25 **10-4-637. No discrimination by profession.** Reimbursement for
26 lawfully performed health care services covered by a policy providing
27 medical payments coverage under a motor vehicle policy issued pursuant

to this part 6 shall not be denied when such services are a covered benefit and rendered within the scope of practice for a licensed health care provider, a massage therapist, as defined in section 12-35.5-103, C.R.S., or an occupational therapist, as ~~defined~~ DESCRIBED in section ~~12-40.5-103~~ 6-1-707 (1) (c), C.R.S., performing the services.

SECTION 7. In Colorado Revised Statutes, 10-16-104, **amend** (1.4) (a) (XI) as follows:

10-16-104. Mandatory coverage provisions - definitions.

(1.4) **Autism spectrum disorders.** (a) As used in this subsection (1.4), unless the context otherwise requires:

(XI) "Therapeutic care" means services provided by a speech therapist, an occupational therapist ~~registered to practice occupational therapy pursuant to article 40.5 of title 12~~ AS DESCRIBED IN SECTION 6-1-707 (1) (c), C.R.S., a physical therapist licensed to practice physical therapy pursuant to article 41 of title 12, C.R.S., or an autism services provider. "Therapeutic care" includes, but is not limited to, speech, occupational, and applied behavior analytic and physical therapies.

SECTION 8. In Colorado Revised Statutes, 10-16-106.7, **amend** (1) (a) as follows:

10-16-106.7. Assignment of health insurance benefits.

(1) (a) Any carrier that provides health coverage to a covered person shall allow, but not require, ~~such~~ THE covered person under the policy to assign, in writing, payments due under the policy to a licensed hospital, other licensed health care provider, an occupational therapist as ~~defined~~ DESCRIBED in section ~~12-40.5-103~~ 6-1-707 (1) (c), C.R.S., or a massage therapist as defined in section 12-35.5-103 (8), C.R.S., also referred to in this section as the "provider", for services provided to the covered person

1 that are covered under the policy.

2 **SECTION 9.** In Colorado Revised Statutes, 12-29.7-105, **amend**
3 (1) as follows:

4 **12-29.7-105. Limitations on authority.** (1) Nothing in this
5 article ~~shall be construed to authorize~~ AUTHORIZES an athletic trainer to
6 perform the practice of medicine, as defined in article 36 of this title;
7 physical therapy, as defined in article 41 of this title; chiropractic, as
8 defined in article 33 of this title; occupational therapy, as ~~defined~~
9 DESCRIBED in ~~article 40.5 of this title~~ SECTION 6-1-707 (1) (c), C.R.S.; or
10 any other form of healing except as authorized by this article.

11 **SECTION 10.** In Colorado Revised Statutes, 13-4-102, **repeal** (2)
12 (kk) as follows:

13 **13-4-102. Jurisdiction - repeal.** (2) The court of appeals has
14 initial jurisdiction to:

15 (kk) ~~Review all final actions and orders appropriate for judicial~~
16 ~~review of the director of the division of professions and occupations in~~
17 ~~the department of regulatory agencies, as provided in section~~
18 ~~12-40.5-110, C.R.S.~~

19 **SECTION 11. Effective date.** This act takes effect June 30,
20 2013.

21 **SECTION 12. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.